

## SENATE BILL NO. 378

INTRODUCED BY G. PERRY

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT PAYMENT OF A WORKERS' COMPENSATION CLAIM TO AN EMPLOYEE WHO IS AN UNAUTHORIZED ALIEN MAY BE MADE ONLY TO A BANK ACCOUNT IN THE EMPLOYEE'S HOME COUNTRY OR OTHER COUNTRY TO WHICH THE EMPLOYEE DEPARTS OR IS REMOVED; REQUIRING THE DEPARTMENT OF LABOR AND INDUSTRY TO ADOPT RULES; AND AMENDING SECTION 39-71-742, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 39-71-742, MCA, is amended to read:

**"39-71-742. Who may receive payment.** (1) A payment due to a child under 18 years of age or to a person adjudged incompetent must be made to the parent or the appointed guardian, and the written receipt for the payment must acquit the employer, the insurer, or the department of further liability.

(2) A payment due to a member of the highway patrol receiving the salary benefit provided in 44-1-511 must be made to the department of justice to offset the salary benefit until the member is no longer eligible to receive the salary benefit.

(3) ~~In~~ Except as provided in [section 2], in other cases, payment must be made to the person entitled to the payment or to the person's authorized representative."

**NEW SECTION. Section 2. Workers' compensation awards to unauthorized aliens.** (1) An insurer may not pay a claim for compensation pursuant to this chapter to an employee who is an unauthorized alien until the insurer has received from the employee an affidavit as provided in this section.

(2) The affidavit must have been executed by the employee under oath before a United States consular representative in this country, in the country of which the employee is a citizen, or in another country to which the employee has voluntarily departed or been removed, stating that the employee has:

(a) established the employee's identity to the satisfaction of the consular representative; and

(b) identified to the consular representative an account in a bank or other financial institution in the country into which the compensation may be paid by electronic funds transfer or other means as provided by

1 rules adopted by the department.

2 (3) The insurer may pay the compensation to the employee only by transferring the payment to the  
3 account in the bank or other financial institution identified in the affidavit.

4 (4) The affidavit required by this section is considered to be, for the purposes of administration of this  
5 section and this chapter, part of a claim submitted by the employee to the employer.

6 (5) For the purposes of this section, "unauthorized alien" has the meaning provided in 8 U.S.C.  
7 1324a(h)(3).

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9 NEW SECTION. Section 3. Codification instruction. [Section 1] is intended to be codified as an  
10 integral part of Title 39, chapter 71, part 7, and the provisions of Title 39, chapter 71, part 7, apply to [section 1].

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